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BENMAN & COLLINS
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LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Application of
Marko et al.
Application No. 09/318,031
Filed: May 25, 1999
Attorney Docket No. XM-0022

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on July 17, 2006, to withdraw the holding of abandonment.

On November 10, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. On June 19, 2006, the Office mailed a Notice of Abandonment.

Petitioners assert that a proper response was filed timely in the USPTO on February 23, 2006. In support of the petition, petitioner submits a copy of the reply in the form of an amendment, a copy of the request for an extension of time for response within the first month, a copy of the credit card authorization to charge the \$120.00 extension of time fee, a copy of their credit card statement showing the charge of \$120.00, and a copy of a returned, date-stamped postcard receipt. The postcard receipt acknowledges receipt of an Amendment, a Petition for Extension of Time for One Month, and a Credit Card Authorization Form for \$120.00 in the USPTO on February 23, 2006.

The Office has not located the original correspondence; however, the Office finance records reveal a charge to the credit card for \$120.00 on February 23, 2006. Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on February 23, 2006, but was not matched with the application.

The petition under 37 CFR 1.181 is **granted** and the holding of abandonment is hereby withdrawn.

The Office mistakenly charged petitioners' credit card for a second extension of time fee in the amount of \$120.00. This fee will be refunded to the credit card.

This matter is being referred to Technology Center Art Unit 2617 for review of the amendment.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND										
1 Date of Request: <u>09/28/06</u>		2 Serial/Patent # <u>09318031</u>								
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT						
	Filing			\$						
	Amendment			\$						
<input checked="" type="checkbox"/>	Extension of Time (1251)		07/17/06	\$ 120.00						
	Notice of Appeal/Appeal			\$						
	Petition			\$						
	Issue			\$						
	Cert of Correction/Terminal Disc.			\$						
	Maintenance			\$						
	Assignment			\$						
	Other			\$						
			7 TOTAL AMOUNT OF REFUND	\$ 120.00						
			8 TO BE REFUNDED BY: CREDIT CARD							
10 REASON:			Treasury Check							
<input checked="" type="checkbox"/>	Overpayment	Credit Deposit A/C #:								
	Duplicate Payment	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px; text-align: center;">--</td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td><td style="width: 20px; height: 20px;"></td></tr></table>					--			
		--								
	No Fee Due (Explanation):									
Please refund the \$120 fee to the credit card										
11 REFUND REQUESTED BY: <u>Christina T. Donnell</u>										
TYPED/PRINTED NAME: <u>Christina T. Donnell</u>		TITLE: <u>Petitions Attorney</u>								
SIGNATURE: <u>C T Donnell</u>		PHONE: <u>272-3211</u>								
OFFICE: <u>4700</u>										
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****										
APPROVED: <u>CRD</u>		DATE: <u>9/29/06</u>								

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Crystal Park One, Room 802B**



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PTO/SB/22 (08-03)
Approved for use through 7/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional) XM-0022

In re Application of P. Marko

Application Number 09/318,031

Filed 05/25/1999

For INTEROPERABLE SATELLITE DIGITAL AUDIO RADIO...

Art Unit 2681

Examiner T. M. Davis

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

☒ One month (37 CFR 1.17(a)(1))

☐ Two months (37 CFR 1.17(a)(2))

☐ Three months (37 CFR 1.17(a)(3))

☐ Four months (37 CFR 1.17(a)(4))

☐ Five months (37 CFR 1.17(a)(5))

Refund Ref: 09/29/2006 0030034863 \$ 120.00

Credit Card Refund Total: \$120.00 \$

As Exp.: XXXXXXXXXX4001 \$

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$

☐ A check in the amount of the fee is enclosed.

☒ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number

I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 29, 014

☐ attorney or agent under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

February 17, 2006

Date

(310) 553-2400

Telephone Number


Signature

William J. Benman

Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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07/18/2006 SSITHIB1 00000056 09318031

01 FC:1251

120.00 00

Adjustment date: 09/29/2006
07/18/2006 SSITHIB1 00000056 09318031
01 FC:1251



#17

XM-0022

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
P. Marko <i>et al.</i>	:	Group Art Unit: 2681
Serial No.: 09/318,031	:	Examiner: T. M. Beamer
Filed: 05/25/1999	:	Date: July 13, 2006
For: INTEROPERABLE SATELLITE	:	
	:	

**PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
PURSUANT TO 37 C.F.R. 1.181(a)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a Petition under 37 C.F.R. 1.181(a) to Withdraw a Holding of Abandonment.

On February 17, 2006, we filed an Amendment with a request for a one-month extension of time with the United States Patent and Trademark Office along with a Credit Card Authorization Form for \$120.


A copy of the postcard acknowledging receipt of the above by the USPTO is enclosed. Also enclosed is a copy of our credit card statement reflecting that the payment amount of \$120 was charged to our credit card by the USPTO.

On June 22, 2006, we received a Notice of Abandonment from the USPTO for failure to respond to an Office Action mailed November 11, 2005.

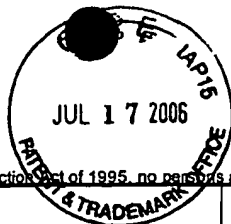
Applicants respectfully submit that the Application was abandoned due to USPTO error as evidenced by the attached copy of the postcard acknowledging receipt on February 23, 2006 of the Amendment and a copy of our credit card statement showing that the USPTO charged the appropriate fee amount to the appropriate credit card account.

Withdrawal of the Holding of Abandonment of the subject Application is hereby requested.

Respectfully submitted,
Paul Marko *et al.*

by 
William J. Benman
Attorney of Record
Registration No. 29,014

Benman, Brown & Williams
2049 Century Park East, Suite 2740
Los Angeles, CA 90067
(310) 553-2400
(310) 553-2675 facsimile



DAC

✓
JFW

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/318,031
	Filing Date	05/25/1999
	First Named Inventor	P. Marko
	Art Unit	2681
	Examiner Name	T. M. Beamer
	Attorney Docket Number	XM-0022
Total Number of Pages in This Submission	17	

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	-Documentation to Support Pet. (15 pages)
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	-Postcard
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual name	Benman, Brown & Williams	
Signature	<i>[Signature]</i>	
Date	July 13, 2006	

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Leigh Christian		
Signature	<i>[Signature]</i>	Date	July 13, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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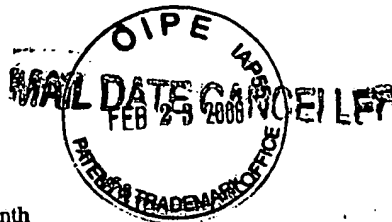
Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office
In re Application of :
P. Marko et al. :
Serial No.09/318,031 :
Filed: May 25, 1999 :
For: INTEROPERABLE SATELLITE :
DIGITAL AUDIO RADIO SERVICE :
(SDARS) RECEIVER ARCHITECTURE :

Group Art Unit 2681
Examiner: T. M. Davis
Date: February 17, 2006

including:

- Transmittal Form
- Certificate of Mailing
- Amendment
- Petition for Extension of Time for One Month
- Credit Card Authorization Form for \$120
- Stamped, self-addressed postcard to acknowledge receipt of the above

Attorney Docket # XM-0022



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Prepared For
WILLIAM J BENMAN JR
BENMAN & COLLINS

Account Number
XXXX-XXXXX1-64001

Closing Date
03/06/06

Page 3 of 8

New Activity Continued

		Amount
01/31/06	FEDEX #833753305257 LOS ANGELES CA 33612 TO CLAUDE NEVINS E	21.5
02/06/06		97.98
02/06/06		73.86
02/08/06		120.00
02/09/06		138.09
02/09/06		3.00
02/10/06		331.30
02/11/06		3.00
02/13/06		3.00
02/16/06		21.98
02/17/06		19.95
02/21/06		18.96
02/23/06		41.75
02/24/06		119.27
02/24/06		16.37
	FOOD-BEV TIP	11.37 5.00
02/24/06	US PATENT TRADEMARK 703-3054631 VA GOVERNMENT SERVICES	120.00
02/24/06	INTUIT SOFTWARE SUPP800-446-8848 CA CMPTR SFTWRE	75.18
02/27/		1,919.55



08740 R07N1A06 02400

Continued on reverse



Receipt is hereby acknowledged for the following in the U.S. Patent and Trademark Office

In re Application of

P. Marko et al.

Serial No. 09/318,031

Filed: May 25, 1999

For: INTEROPERABLE SATELLITE

DIGITAL AUDIO RADIO SERVICE

(SDARS) RECEIVER ARCHITECTURE

Group Art Unit 2681

Examiner: T. M. Davis

Date: February 17, 2006

including:

- Transmittal Form

- Certificate of Mailing

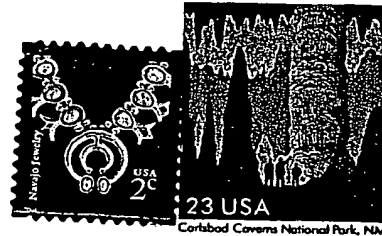
- Amendment

- Petition for Extension of Time for One Month

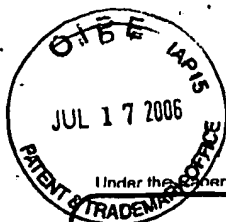
- Credit Card Authorization Form for \$120

- Stamped, self-addressed postcard to acknowledge receipt of the above

Attorney Docket # XM-0022



Benman, Brown & Williams
2049 Century Park East
Suite 2740
Los Angeles, CA 90067



PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 120

Complete if Known

Application Number 09/318,031

Filing Date 05/25/1999

First Named Inventor P. Marko

Examiner Name T. M. Beamer

Art Unit 2681

Attorney Docket No. XM-0022

METHOD OF PAYMENT (check all that apply)☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☐ Credit any overpayments

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition for Extension of Time for 1 month

\$120

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 29,014	Telephone (310) 553-2400
Name (Print/Type)	William J. Benman		Date February 17, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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XM - 0022

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	
P. Marko et al.	:	Group Art Unit 2681
Serial No.09/318,031	:	Examiner: T. M. Beamer
Filed: May 25, 1999	:	Date: February 13, 2006
For: INTEROPERABLE SATELLITE	:	
DIGITAL AUDIO RADIO SERVICE	:	
(SDARS) RECEIVER ARCHITECTURE	:	

AMENDMENT B

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated November 10, 2005, please amend the above-identified Application as follows and consider the accompanying remarks.

IN THE CLAIMS:

1. (Previously Presented) A receiver comprising:
first means for receiving signals in a first band, said first band including multiple carriers;
second means for downconverting said received signals in the first band;
third means for receiving signals in a second band, said second band including multiple carriers;
fourth means for downconverting signals in the second band; and
fifth means for selectively outputting signals from the first band or the second band.

Claims 2 - 3 (Canceled)

4. (Original) The invention of Claim 1 wherein the first band is the XM band.
5. (Original) The invention of Claim 1 wherein the second band is the CD band.
6. (Original) The invention of Claim 1 wherein the first and the third means is a radio frequency antenna.
7. (Original) The invention of Claim 6 wherein the output of the antenna is input to a filter.
8. (Original) The invention of Claim 7 wherein the filter is an image filter.
9. (Original) The invention of Claim 7 wherein the filter is a selectivity filter.

10. (Original) The invention of Claim 6 wherein the second means and the fourth means is a mixer.

11. (Original) The invention of Claim 10 wherein the mixer is driven by a voltage controlled oscillator.

12. (Original) The invention of Claim 11 wherein the voltage controlled oscillator is driven by a synthesizer.

13. (Original) The invention of Claim 12 wherein the fifth means includes a controller.

14. (Original) The invention of Claim 13 wherein the synthesizer is controlled by the controller to cause said receiver to selectively output signals received in the XM band or the CD band.

15. (Original) The invention of Claim 13 further including means for digitizing the output of the mixer.

16. (Original) The invention of Claim 15 further including means for simultaneously receiving first and second ensembles, said first ensemble including a first signal from a first source, a first signal from a second source and a first signal from a third source and said second ensemble including a second signal from said first source, a second signal from said second source and a second signal from said third source.

17. (Original) The invention of Claim 16 further including means for selectively outputting signals transmitted within said first and said second ensembles.

18. (Original) The invention of Claim 15 further including means for outputting an audio signal along with a data signal.

19. (Original) The invention of Claim 1 further including means for outputting an audio signal along with a data signal.

20. (Original) An interoperable receiver comprising:
first means for receiving signals in an XM band;
second means for downconverting said received signals in the XM band;
third means for receiving signals in a CD band;
fourth means for downconverting signals in the CD band; and
control means for selectively outputting signals from the XM band or the CD band.

21. (Original) The invention of Claim 20 further including means for simultaneously receiving first and second ensembles, said first ensemble including a first signal from a first source, a first signal from a second source and a first signal from a third source and said second ensemble including a second signal from said first source, a second signal from said second source and a second signal from said third source.

22. (Original) The invention of Claim 21 further including means for selectively outputting signals transmitted within said first and said second ensembles.

23. (Original) The invention of Claim 22 further including means for outputting an audio signal along with a data signal.

24. (Original) The invention of Claim 20 further including means for outputting an audio signal along with a data signal.

25. (Canceled)

26. (Currently Amended) A receiver comprising:

first means for receiving first and second dissimilar ensembles, each ensemble having multiple carriers on which multiple signals are modulated and

second means for processing said first and said second ensembles to selectively output said signals ~~simultaneously~~.

REMARKS

Claims 1, 4 - 24 and 26 are presently pending. Claims 1, 6 - 10 and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang ('750) in view of Chang *et al.*, hereinafter 'Chang', ('307). Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang and further in view of well-known prior art. Claims 20 - 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable under Wang in view of well-known prior art. Claims 11 - 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang and Anderson *et al.* ('750) hereinafter 'Anderson'. Claims 14 - 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang, Anderson and well-known prior art. Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang, Anderson and Campanella *et al.* ('366), hereinafter 'Campanella'. Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, Chang, and Campanella. Claims 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wang, well-known prior art and Campanella.

For the reasons set forth more fully below, Applicants respectfully submit that the subject Application properly presents Claims patentable over the prior art. Reconsideration, allowance and passage to issue are respectfully requested.

As noted previously, the subject application teaches a novel receiver design by which first and second bands are received, each band having multiple carriers. The novel receiver is particularly well suited for satellite radio applications by which multiple carriers are transmitted within first and second ensembles by first and second satellites and a terrestrial repeater. The invention is set forth in Claims of varying scope of which Claim 1 as amended is illustrative. Claim 1 now recites:

1. A receiver comprising:
 - first means for receiving signals in a first band, said first band including multiple carriers;
 - second means for downconverting said received signals in the first band;
 - third means for receiving signals in a second band, said second band including multiple carriers;
 - fourth means for downconverting signals in the second band; and
 - fifth means for selectively outputting signals from the first band or the second band. (Emphasis added.)

None of the references teach, disclose or suggest the invention as presently claimed. That is, none of the references, taken alone or in combination, teach, disclose or suggest a receiver adapted to receive signals in first and second bands each band having multiple carriers, and **adapted to selectively output signals from the first band or the second band.**

In the above-identified Office Action, the Examiner again relied heavily on Wang while noting that Wang does not teach first and second bands including multiple carriers.

However, the Examiner suggests that this shortcoming is overcome by the teachings of Chang. Chang purports to teach techniques for utilization of bandwidth space assets. The Examiner suggests that at column 5, line 38 through column 6, line 25 Chang discloses a satellite receiver with a spectral band divided into smaller subbands and that this teaching is equivalent to providing subbands with multiple carriers. The Examiner suggests that at the time of invention, it would have been obvious to a person of ordinary skill in the art to combine the teachings of Wang with the teachings of Chang for the purpose of increasing system capacity to allow more subscribers to simultaneously use the system. However, there are several shortcomings associated with this assertion.

First, there is no reason to combine the teachings of Wang and Chang. Secondly, the combination still falls short. That is, neither reference discloses means for "selectively outputting signals from the first band or the second band" as set forth in the claims. That is, neither reference teaches a receiver adapted to receive first and second bands with multiple carriers and having means for selectively outputting signals from the


first band or second band as presently claimed. Hence the rejection of Claim 1 and the claims dependent thereon are improper and should be withdrawn.

Further, contrary to the assertions of the Examiner, for the reasons set forth above, the teachings of Wang and Chang would not render obvious the use of the invention as an interoperable receiver adapted to receive signals in an XM band and a CD band as set forth further in dependent Claims 4 and 5 and independent Claim 20. With respect to these claims, it is noted that the Examiner rejected the claims, suggesting that these claims were obvious in view of Wang, Chang and well-known prior art. However, the Examiner's position is not supported by the prior art. In this connection, it is noted that the XM frequency plan and the CD frequency plan call for the use of ensembles that are dissimilar to each other. Chang, at best, purports to teach the use of a single symmetrical ensemble. Chang clearly does not teach the reception of dissimilar ensembles as would be required in the interoperable receiver of Claim 20. Hence, the rejection of Claims 4, 5 and 20 are also improper and should be withdrawn.

By this Amendment, Claim 26 has been amended to recite the reception of dissimilar ensembles. Hence, for the reasons set forth above, Claim 26 should be allowable as well.

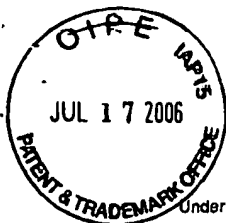
Reconsideration, allowance and passage to issue are respectfully requested.

Respectfully submitted,
P. Marko et al.

By 
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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional) XM-0022

In re Application of P. Marko

Application Number 09/318,031

Filed 05/25/1999

For INTEROPERABLE SATELLITE DIGITAL AUDIO RADIO...

Art Unit 2681

Examiner T. M. Davis

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- ☒ One month (37 CFR 1.17(a)(1)) \$ 120.00
☐ Two months (37 CFR 1.17(a)(2)) \$ _____
☐ Three months (37 CFR 1.17(a)(3)) \$ _____
☐ Four months (37 CFR 1.17(a)(4)) \$ _____
☐ Five months (37 CFR 1.17(a)(5)) \$ _____

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ _____
☐ A check in the amount of the fee is enclosed.
☒ Payment by credit card. Form PTO-2038 is attached.
☐ The Director has already been authorized to charge fees in this application to a Deposit Account.
☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____

I have enclosed a duplicate copy of this sheet.

I am the ☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).

☒ attorney or agent of record. Registration Number 29,014

☐ attorney or agent under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) _____

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

February 17, 2006

Date

(310) 553-2400

Telephone Number


Signature

William J. Benman

Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/318,031	05/25/1999	PAUL MARKO	XM-0022	9813

7590 06/19/2006
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2049 CENTURY PARK EAST
SUITE 2740
LOS ANGELES, CA 90067

EXAMINER

BEAMER, TEMICA M

ART UNIT PAPER NUMBER

2617

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/318,031

Examiner

Temica M. Beamer

Applicant(s)

MARKO ET AL.


Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 10 November 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


TEMICA BEAMER
PRIMARY EXAMINER
10/12/06

Temica M. Beamer
Primary Examiner
Art Unit: 2617

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

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